

CONDOMINIUM PUBLIC REPORT

Prepared &
Issued by:

Developer JOHN McCABE, Trustee, and ELIANE M. McCABE
Business Address P.O. Box 25053, Honolulu, Hawaii 96825

Project Name(*): 4545 SIERRA DRIVE
Address: 4545 Sierra Drive, Honolulu, Hawaii 96816

Registration No. 2836 (Conversion)

Effective date: March 7, 2016

Expiration date: April 7, 2017

Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

Expiration Date of Reports: Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

Type of Report:

☐ **PRELIMINARY:**
(yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed.

☐ **FINAL:**
(white) The developer has legally created a condominium and has filed complete information with the Commission.

☐ No prior reports have been issued.

☐ This report supersedes all prior public reports.

☐ This report must be read together with _____

☒ **SUPPLEMENTARY:**
(pink) This report updates information contained in the:

☐ Preliminary Public Report dated: _____

☒ Final Public Report dated: April 20, 1994

☐ Supplementary Public Report dated: _____

And ☐ Supersedes all prior public reports.

☒ Must be read together with Final Public Report dated April 20, 1994

☐ This report reactivates the _____

public report(s) which expired on _____

(*) Exactly as named in the Declaration

This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.

FORM: RECO-30 286/986/189/1190/892/0197/1098/0800/0203/0104/0107

G:\CPR\CLIENT\McCabe Skip Extention\Abbreviated Supplementary Public Report rev1.docx

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

☐ Required and attached to this report ☒ Not Required - Disclosures covered in this report.

Summary of Changes from Earlier Public Reports:

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

☐ No prior reports have been issued by the developer.

☒ Changes made are as follows:

1. Original Developer ELIANE M. McCABE, Trustee, transferred her interest in Unit 4545 to herself, individually. The Developer sold Unit 4545-A.
2. The rules relating to "ohana" dwellings have changed. See disclosure below.
3. Updated title reports have been filed herewith. See revised pages 6, 14, 15 and Exhibit F.
4. An updated escrow agreement has been filed herewith. See revised page 18.

SPECIAL ATTENTION

- (a) This is CONDOMINIUM PROJECT, not a subdivision. The land area beneath and immediately appurtenant to each unit is designated a LIMITED COMMON ELEMENT and is not a legally subdivided lot. The dotted lines on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.
- (b) Apartment 4545-A is an "ohana" dwelling, as such term is defined under the Land Use Ordinance of the City and County of Honolulu (the "LUO"). When the Apartment was constructed in 1987, the floor area of said Apartment was legal, but when the "ohana" rules were amended in 1990, it exceeded the allowable floor area for an "ohana" dwelling and was considered a "non-conforming" structure.

The limitation on floor area of "ohana" dwellings has since been removed and the floor area of said Apartment 4545-A no longer exceeds the allowable floor area for an "ohana" dwelling under the LUO. Thus, Apartment 4545-A is no longer considered a "non-conforming" structure.

The current LUO does not permit Apartment 4545-A to be enlarged. However, if Apartment 4545-A were destroyed to an extent of more than 50% of its replacement cost, the LUO allows such "ohana" dwelling to be rebuilt to the larger of (a) its previously existing size, or (b) "the floor area allowable under the current maximum building area development standard in the applicable zoning district."

This public report does not constitute approval of the Project by the Real Estate Commission, or any other government agency, nor does it ensure that all applicable City and County codes, ordinances, and subdivision requirements have necessarily been complied with.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS REFERENCED ON THIS PUBLIC REPORT FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

A. **Declaration of Condominium Property Regime** contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

<input type="checkbox"/> Proposed			
<input checked="" type="checkbox"/> Recorded -	Bureau of Conveyances:	Document No. <u>93-23309</u>	
		Book _____	Page _____
<input type="checkbox"/> Filed - -	Land Court:	Document No. _____	

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]:

Amendment to Declaration of Condominium Property Regime, dated March 17, 1993, recorded as Document No. 93-042649.

B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

<input type="checkbox"/> Proposed			
<input checked="" type="checkbox"/> Recorded -	Bureau of Conveyances	Condo Map No. <u>1810</u>	
<input type="checkbox"/> Filed -	Land Court	Condo Map No. _____	

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

<input type="checkbox"/> Proposed			
<input checked="" type="checkbox"/> Recorded -	Bureau of Conveyances:	Document No. <u>93-23310</u>	
		Book _____	Page _____
<input type="checkbox"/> Filed - -	Land Court:	Document No. _____	

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]:

2. Limited Common Elements: Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

☐ There are no limited common elements in this project.

☒ The limited common elements and the apartments which use them, as described in the Declaration, are:

☒ described in Exhibit C.

☐ as follows:

NOTE: Reference to said Exhibit "D" to "Dwelling Areas" does not mean legally subdivided lots.

3. Common Interest: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

☒ described in Exhibit B.

☐ as follows:

- E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit F describes the encumbrances against the title contained in the title report dated May 28, 2015 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

☒ There are no blanket liens affecting title to the individual apartments.

☐ There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
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F. Construction Warranties:

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. Building and Other Improvements:

NONE

2. Appliances:

NONE

V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission:

Sales documents on file with the Real Estate Commission include but are not limited to:

- ☐ Notice to Owner Occupants
- ☒ Specimen Sales Contract
Exhibit D contains a summary of the pertinent provisions of the sales contract.
- ☒ Escrow Agreement dated January 22, 2016
Exhibit E contains a summary of the pertinent provisions of the escrow agreement.
- ☐ Other _____

B. Buyer's Right to Cancel Sales Contract:

1. Rights Under the Condominium Property Act (Chapter 514A, HRS):

Preliminary Report: Sales made by the developer are not binding on the prospective buyer. Sales made by the developer may be binding on the developer unless the developer clearly states in the sales contract that sales are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00.

Supplementary Report to a Preliminary Report: Same as for Preliminary Report.

Final Report or Supplementary Report to a Final Report: Sales made by the developer are binding if:

- A) The Developer delivers to the buyer a copy of:
 - 1) Either the Final Public Report OR the Supplementary Public Report which has superseded the Final Public Report for which an effective date has been issued by the Real Estate Commission; AND
 - 2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
- B) The buyer is given an opportunity to read the report(s); AND
- C) One of the following has occurred:
 - 1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
 - 2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
 - 3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

Material Change: Binding contracts with the Developer may be rescinded by the buyer if:

- A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; AND
- B) The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
 - B) Declaration of Condominium Property Regime, as amended.
 - C) Bylaws of the Association of Apartment Owners, as amended.
 - D) House Rules, if any.
 - E) Condominium Map, as amended.
 - F) Escrow Agreement.
 - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
 - H) Other _____

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and or through the developer's sales agent, if any. The Condominium Property Regime Law (Chapter 514A, HRS) and the Administrative Rules, (Chapter 107), are available on line. Please refer to the following sites:

Website to access official copy of laws: www.capitol.hawaii.gov

Website to access unofficial copy of laws: www.hawaii.gov/dcca/hrs

Website to access rules: www.hawaii.gov/dcca/har

This Public Report is a part of Registration No. 2836 filed with the Real Estate Commission on 3/17/93.

Reproduction of Report. When reproduced, this report must be on:

☐ YELLOW paper stock

☐ WHITE paper stock

☒ PINK paper stock

C. **Additional Information Not Covered Above**

LEAD WARNING STATEMENT

Pursuant to federal law, 42, U.S.C 4852(d), the Residential Lead-Based Paint Reduction Act, "Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase."

HAZARDOUS MATERIALS

The Developer neither prepared nor commissioned a Phase 1 Environmental Site Assessment and makes no representations or warranties whatsoever. The developer has made no independent investigation as to asbestos or other hazardous substances in the apartments or in, under or around the Project, including but not limited to, radioactive materials, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances, and any and all other substances or materials defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials" or "toxic substances" under, or for the purposes of, hazardous materials laws. Buyer acknowledges that in light of the age of the Project, there may be asbestos and other hazardous substances in the apartments, or in, under or around the Project. Because of the possible presence of such substances, Buyer should have the apartment inspected to determine the extent (if any) of such contamination and any necessary remedial action. The developer will not correct any defects in the apartments or in the Project or anything installed or contained therein and Buyer expressly releases the developer from any liability to Buyer if any hazardous materials are discovered.

DISCLOSURE RE: NON SELECTION OF REAL ESTATE BROKER. As of the effective date of this Supplementary Public Report, the Developer has not executed a listing agreement for the sale of Unit 4545 with any duly licensed Hawaii real estate broker. Thus, the developer cannot offer to sell or sell Unit 4545 in this registered condominium project until:

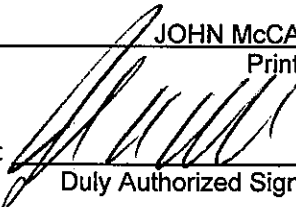
- 1) the developer executes a listing agreement for the sale of Unit 4545,
- 2) amends this Supplementary Public Report to reflect the new information, and
- 3) delivers this public report and amendment to the prospective purchaser.

The conditions for binding sales contract are listed on pages 18-19 paragraph V.B.

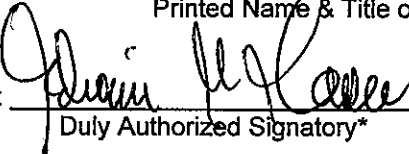
THE DEVELOPER'S FINAL REPORT EXPIRED ON MAY 20, 1994. PURSUANT TO SECTION 16-107-19, HAWAII ADMINISTRATIVE RULES, SALES CONTRACTS EXECUTED DURING THE PERIOD THAT THE PUBLIC REPORT WAS NOT IN EFFECT MAY BE RESCINDED AT THE OPTION OF THE PURCHASER AND ALL MONIES REFUNDED TO THE PURCHASER. THE PURCHASER'S RIGHT TO RESCIND UNDER THIS RULE SHALL BE VOID THIRTY (30) DAYS AFTER RECEIPT OF WRITTEN NOTIFICATION OF THESE RIGHTS FROM THE DEVELOPER OR HIS REAL ESTATE AGENT.

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

JOHN McCABE, Trustee, and ELIANE M. McCABE
Printed Name of Developer

By:  _____ February 29, 2016
Duly Authorized Signatory* Date

JOHN McCABE, Trustee
Printed Name & Title of Person Signing Above

By:  _____ February 29, 2016
Duly Authorized Signatory* Date

ELIANE M. McCABE
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

****Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.***

EXHIBIT "F"

ENCUMBRANCES AGAINST TITLE

1. Mineral and water rights of any nature in favor of the State of Hawaii.
2. The terms and provisions contained in the DECLARATION dated July 8, 1936, recorded in Liber 1337, Page 219.
3. GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated February 23, 1962, recorded in Liber 4250 at Page 261; granting an easement for sewer purposes over and across Parcel 101 of the Maunalani Heights Sewers, Section II, and containing an area of 800 square feet, more or less.
4. The terms and provisions contained in AFFIDAVIT dated March 23, 1987, recorded in Liber 20489 at Page 740, by DAVID A. RICK, in consideration of the issuance by the Building Department, City and County of Honolulu, of a building permit.
5. The terms and provisions contained in AFFIDAVIT dated December 31, 1992, recorded as Document No. 92-215541, by JOHN M. McCABE, in consideration of the issuance by the Building Department, City and County of Honolulu, of a building permit.
6. Terms, conditions and provisions contained in the John M. McCabe Revocable Trust, established by an unrecorded Trust Agreement dated June 1, 1985.
7. The terms and provisions contained in the DECLARATION OF CONDOMINIUM PROPERTY REGIME FOR "4545 SIERRA DRIVE" CONDOMINIUM PROJECT dated February 11, 1993, recorded as Document No. 93-023309. (Project covered by Condominium Map No. 1810 and any amendments thereto.)

Said Declaration was amended by instrument dated March 17, 1993, recorded as Document No. 93-042649.
8. The terms and provisions contained in the BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS dated February 11, 1993, recorded as Document No. 93-023310.
9. -AS TO UNIT 4545 ONLY:-

(A) The terms and provisions contained in Apartment Deed dated June 10, 1999, recorded as Document No. 99-096598.

(B) Terms, conditions and provisions contained in the John M. McCabe Revocable Trust, established by an unrecorded Trust Agreement dated June 1, 1985.
10. -AS TO UNIT 4545-A ONLY:-

(A) The terms and provisions contained in Apartment Deed dated June 1, 1993, recorded as Document No. 93-089544.

(B) REVOLVING CREDIT MORTGAGE in favor of KAMEHAMEHA FEDERAL CREDIT UNION, a corporation or association which was formed and which exists under the laws of United States, dated October 15, 2012, recorded as Document No. A-46820287.

(C) MORTGAGE in favor of HAWAII NATIONAL BANK, a national banking association, dated February 3, 2014, recorded as Document No. A-51560335.

(D) SECOND MORTGAGE AND FINANCING STATEMENT dated HAWAII NATIONAL BANK, a national banking association, dated February 4, 2014, recorded as Document No. A-51560336.

END OF EXHIBIT "F"

EXHIBIT "G"

DISCLOSURE ABSTRACT

Developer(s)

JOHN M. McCABE, Trustee
ELIANE M. MCCABE
P.O. Box 25053
Honolulu, Hawaii 96825
Phone: 261-0252

Project Manager

Project is to be self-managed

Estimated Maintenance Fee Assessments and Disbursements

MAINTENANCE FEES: The regular maintenance and repair of each condominium unit, including all utility charges, is the sole responsibility of each respective unit owner. There are no common services and/or expenses which will require regular monthly assessments.

INDIVIDUAL INSURANCE: Section 514A-86, Hawaii Revised Statutes, requires that fire insurance be purchased to cover the improvements portion of the Project. Developer anticipates that the Association will elect to obtain separate policies for each individual condominium unit pursuant to Section XIV(c) of the Declaration. As such, the premiums on said policies will be the individual responsibility of each unit owner rather than common expenses of the Project. Purchasers should be aware that premiums for said fire insurance vary widely depending upon the coverage desired and the insurance company used. Developer's best estimate regarding the Cost of said coverage is approximately \$2,000 to \$3,500 per year per unit. Said figures are based on generally accepted accounting principles.

Warranties

Purchasers should be aware that the "condominium units" of the Project are comprised of existing residential structures. Said buildings have unavoidably undergone a certain amount of "wear and tear" commensurate with their age. Accordingly, purchasers should not expect the home they desire to buy to be in "like-new" condition. NO WARRANTIES FOR FITNESS OF USE OR MERCHANTABILITY OR ANY OTHER KIND ARE MADE AS TO THE INDIVIDUAL CONDOMINIUM UNITS OR THE COMMON ELEMENTS OF THE PROJECT. PURCHASERS ARE ADVISED TO CONDUCT THEIR OWN INSPECTION OF THE UNIT THEY DESIRE TO BUY. THE UNITS ARE SOLD "AS IS".

Use of Condominium Units


The units comprising the Project may be occupied and used for residential purposes and such other purposes as permitted by applicable zoning ordinances. There is no commercial or other nonresidential development in the Project.

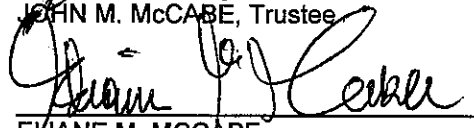
Structural Components and Mechanical & Electrical Installations

Based on a report prepared by an independent registered architect, it is the Developer's opinion that all structural components and mechanical and electrical installations material to the use and enjoyment of the individual condominium units appear to be sound and in satisfactory working condition. However, NO REPRESENTATIONS OF ANY KIND ARE MADE AS TO THE EXPECTED USEFUL LIFE, IF ANY, OF THE STRUCTURAL COMPONENTS AND MECHANICAL AND ELECTRICAL INSTALLATIONS MATERIAL TO THE USE AND ENJOYMENT OF THE CONDOMINIUM UNIT(S).

Code Violations

To the best of the knowledge, information and belief of the undersigned, however, there are no outstanding notices of uncured violations of the building code or other municipal regulations of the City and County of Honolulu.



JOHN M. McCABE, Trustee


ELIANE M. MCCABE

"Developer"

END OF EXHIBIT "G"